
HOUSE BILL 2158

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By Representatives Benton, Pelesky, Koster, Goldsmith, McMahan, Huff, Buck, Hargrove, Pennington, Thompson and Stevens

Read first time 01/08/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes; amending RCW 9A.36.011, 9A.32.010, and
2 10.79.015; and reenacting and amending RCW 9A.36.021 and 9A.04.080.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.36.011 and 1986 c 257 s 4 are each amended to read
5 as follows:

6 (1) A person is guilty of assault in the first degree if he or she,
7 with intent to inflict great bodily harm:

8 (a) Assaults another with a firearm or any deadly weapon or by any
9 force or means likely to produce great bodily harm or death; or

10 (b) Administers to or causes to be taken by another, poison, the
11 human immunodeficiency virus as defined in chapter 70.24 RCW, or any
12 other destructive or noxious substance; or

13 (c) Assaults another and inflicts great bodily harm.

14 (2) A person is guilty of assault in the first degree if he or she,
15 with knowledge that he or she has tested positive for human
16 immunodeficiency virus as defined in chapter 70.24 RCW, recklessly
17 exposes or transmits to another person the human immunodeficiency
18 virus.

19 (3) Assault in the first degree is a class A felony.

1 **Sec. 2.** RCW 9A.36.021 and 1988 c 266 s 2, 1988 c 206 s 916, and
2 1988 c 158 s 2 are each reenacted and amended to read as follows:

3 (1) A person is guilty of assault in the second degree if he or
4 she, under circumstances not amounting to assault in the first degree:

5 (a) Intentionally assaults another and thereby recklessly inflicts
6 substantial bodily harm; or

7 (b) Intentionally and unlawfully causes substantial bodily harm to
8 an unborn quick child by intentionally and unlawfully inflicting any
9 injury upon the mother of such child; or

10 (c) Assaults another with a deadly weapon; or

11 (d) With intent to inflict bodily harm, administers to or causes to
12 be taken by another, poison(~~(, the human immunodeficiency virus as~~
13 ~~defined in chapter 70.24 RCW,)) or any other destructive or noxious
14 substance; or~~

15 ~~(e) ((With intent to inflict bodily harm, exposes or transmits~~
16 ~~human immunodeficiency virus as defined in chapter 70.24 RCW; or~~

17 ~~(f))~~ With intent to commit a felony, assaults another; or

18 ~~((g))~~ (f) Knowingly inflicts bodily harm which by design causes
19 such pain or agony as to be the equivalent of that produced by torture.

20 (2) Assault in the second degree is a class B felony.

21 **Sec. 3.** RCW 9A.32.010 and 1987 c 187 s 2 are each amended to read
22 as follows:

23 (1) Except as provided in subsection (2) of this section, homicide
24 is the killing of a human being by the act, procurement, or omission of
25 another, death occurring within three years and a day, and is either
26 ~~((+1))~~ (a) murder, ((+2)) (b) homicide by abuse, ((+3)) (c)
27 manslaughter, ((+4)) (d) excusable homicide, or ((+5)) (e)
28 justifiable homicide.

29 (2) Homicide is the killing of a human being by exposing,
30 administering, or transmitting to another the human immunodeficiency
31 virus as prohibited by RCW 9A.36.011 with death occurring any time
32 after transmission, and is either (a) murder, (b) homicide by abuse,
33 (c) manslaughter, (d) excusable homicide, or (e) justifiable homicide.

34 **Sec. 4.** RCW 10.79.015 and 1980 c 52 s 1 are each amended to read
35 as follows:

1 Any such magistrate, when satisfied that there is reasonable cause,
2 may also, upon like complaint made on oath, issue search warrant in the
3 following cases, to wit:

4 (1) To search for and seize any counterfeit or spurious coin, or
5 forged instruments, or tools, machines or materials, prepared or
6 provided for making either of them.

7 (2) To search for and seize any gaming apparatus used or kept, and
8 to be used in any unlawful gaming house, or in any building, apartment
9 or place, resorted to for the purpose of unlawful gaming.

10 (3) To search for and seize any evidence material to the
11 investigation or prosecution of any homicide or any felony. No health
12 care provider or medical records privilege established under the laws
13 of this state, including but not limited to chapter 70.24, 70.02,
14 18.19, 18.83, 5.62, or 5.60 RCW, may preclude issuance of a warrant for
15 medical records or prevent use of medical records in any subsequent
16 criminal proceeding: PROVIDED, That if the evidence is sought to be
17 secured from any radio or television station or from any regularly
18 published newspaper, magazine or wire service, or from any employee of
19 such station, wire service or publication, the evidence shall be
20 secured only through a subpoena duces tecum unless: (a) There is
21 probable cause to believe that the person or persons in possession of
22 the evidence may be involved in the crime under investigation; or (b)
23 there is probable cause to believe that the evidence sought to be
24 seized will be destroyed or hidden if subpoena duces tecum procedures
25 are followed. As used in this subsection, "person or persons" includes
26 both natural and judicial persons.

27 (4) To search for and seize any instrument, apparatus or device
28 used to obtain telephone or telegraph service in violation of RCW
29 (~~9.45.240~~) 9.26A.110.

30 **Sec. 5.** RCW 9A.04.080 and 1995 c 287 s 5 and 1995 c 17 s 1 are
31 each reenacted and amended to read as follows:

32 (1) Prosecutions for criminal offenses shall not be commenced after
33 the periods prescribed in this section.

34 (a) The following offenses may be prosecuted at any time after
35 their commission:

36 (i) Murder;

37 (ii) Homicide by abuse;

1 (iii) Homicide as enumerated in RCW 9A.32.010 if the homicide
2 occurs as a result of the administration, exposure, or transmission of
3 the human immunodeficiency virus as prohibited by RCW 9A.36.011 (1)(b)
4 or (2);

5 (iv) Assault in the first degree if the assault is committed by
6 administration, exposure, or transmission of the human immunodeficiency
7 virus as prohibited by RCW 9A.36.011 (1)(b) or (2);

8 (v) Arson if a death results.

9 (b) The following offenses shall not be prosecuted more than ten
10 years after their commission:

11 (i) Any felony committed by a public officer if the commission is
12 in connection with the duties of his or her office or constitutes a
13 breach of his or her public duty or a violation of the oath of office;

14 (ii) Arson if no death results; or

15 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
16 reported to a law enforcement agency within one year of its commission;
17 except that if the victim is under fourteen years of age when the rape
18 is committed and the rape is reported to a law enforcement agency
19 within one year of its commission, the violation may be prosecuted up
20 to three years after the victim's eighteenth birthday or up to ten
21 years after the rape's commission, whichever is later. If a violation
22 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape
23 may not be prosecuted: (A) More than three years after its commission
24 if the violation was committed against a victim fourteen years of age
25 or older; or (B) more than three years after the victim's eighteenth
26 birthday or more than seven years after the rape's commission,
27 whichever is later, if the violation was committed against a victim
28 under fourteen years of age.

29 (c) Violations of the following statutes shall not be prosecuted
30 more than three years after the victim's eighteenth birthday or more
31 than seven years after their commission, whichever is later: RCW
32 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,
33 9A.44.100(1)(b), or 9A.64.020.

34 (d) The following offenses shall not be prosecuted more than six
35 years after their commission: Violations of RCW 9A.82.060 or
36 9A.82.080.

37 (e) The following offenses shall not be prosecuted more than five
38 years after their commission: Any class C felony under chapter 74.09,
39 82.36, or 82.38 RCW.

1 (f) Bigamy shall not be prosecuted more than three years after the
2 time specified in RCW 9A.64.010.

3 (g) No other felony may be prosecuted more than three years after
4 its commission.

5 (h) No gross misdemeanor may be prosecuted more than two years
6 after its commission.

7 (i) No misdemeanor may be prosecuted more than one year after its
8 commission.

9 (2) The periods of limitation prescribed in subsection (1) of this
10 section do not run during any time when the person charged is not
11 usually and publicly resident within this state.

12 (3) If, before the end of a period of limitation prescribed in
13 subsection (1) of this section, an indictment has been found or a
14 complaint or an information has been filed, and the indictment,
15 complaint, or information is set aside, then the period of limitation
16 is extended by a period equal to the length of time from the finding or
17 filing to the setting aside.

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